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HIGH COURT OF CHHATTISGARH AT BILASPUR

M.A.No.883/2002

CORAM: Hon'ble Shri S.R.Nayak, Chief Justice &
Hon'ble Shri Dilip Raosaheb Deshmukh, J.

Appellants Non-Applicants	: 1.	National Insurance Company, Through its Branch Manager, Korba, presently through Branch Manager, National Insurance Company Ltd, Priyadarshini Nagar, Bilaspur, Chhattisgarh.
		Versus
RESPONDENT/ CLAIMANTS	: 1.	Smt. Sumitra Bai, W/o Acchay Kumar, Aged about 45 years.
	: 2.	Shri Pawan Kumar, S/o Acchay Kumar, Aged about 23 years, Both Resident of Village: Saragoan, Tehsil: Champa, Dist. Janjgir-Champa. Chhattisgarh.
RESPONDENT/ DRIVER	:	Shri Jagant Ram, S/o of Banau Ram, Aged about 23 years, Resident of Kosmunda, Champa, Dist: Janjgir-Champa. Chhattisgarh.
RESPONDENT/ OWNER:	:	Shri Praveen Kumar Agrawal, S/o Shri Narayan Agrawal, Aged about 45 years, Resident of Champa, Dist. Janjgir-Champa. Chhattisgarh

Shri Sanjay Kumar Agrawal, Counsel for the appellant.

ORAL ORDER

(Passed on 3.4.2006)

The following oral order of the Court was passed by S.R.NAYAK, C.J.

Before the M.A.C.T., the appellant-Insurance Company contended that it was not liable to pay compensation inasmuch as the driver of the motor vehicle involved in the accident, on the date of accident, did not have a valid and effective driving licence to drive the

motor vehicle involved in the accident. It is trite that having taken such a plea before the M.A.C.T. it was the onus of the Insurance Company to establish that fact by legal evidence. Admittedly, the Insurance Company did not produce any certificate or endorsement from the Regional Transport Authority which had issued the driving licence in favour of the driver of the motor vehicle involved in the accident to prove its case. Without resorting to such a course of action, the Insurance Company sought to examine the Regional Transport Officer before the M.A.C.T. by summoning him. In that regard also, an opportunity was given to the appellant. Since the Regional Transport Officer could not be produced before the M.A.C.T. for examination, at a later stage, the M.A.C.T. closed the evidence of the Insurance Company and proceeded to dispose of the claim petition.

2. The record of the case would clearly show that the Insurance Company has failed to discharge the burden of proving that the driver of the motor vehicle involved in the accident did not have a valid and effective driving licence on the date of accident, and in that view of the matter no exception could be taken to the impugned award whereby and whereunder the liability of paying compensation is fastened on the Insurance Company.

3. The appeal is, therefore, dismissed. No costs.

Sd/-
Chief Justice

Sd/-
Dilip Raosaheb Deshmukh
Judge

Anjani